

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-4132

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

CALVIN HUFFSTETLER, a/k/a Calvin Morgan,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Spartanburg. Henry M. Herlong, Jr., District Judge. (CR-04-521)

Submitted: September 30, 2005

Decided: November 1, 2005

Before NIEMEYER and LUTTIG, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Benjamin T. Stepp, Assistant Federal Public Defender, Greenville, South Carolina, for Appellant. Jonathan Scott Gasser, Acting United States Attorney, Columbia, South Carolina; Alan Lance Crick, Assistant United States Attorney, Greenville, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Calvin Huffstetler pled guilty to possession of a firearm and ammunition by a convicted felon in violation of 18 U.S.C. §§ 922(g)(1), 924(a)(2), 924(e) (2000), and was sentenced to one-hundred-eighty months in prison, followed by a five-year period of supervised release. On appeal Huffstetler's counsel filed a brief in accordance with Anders v. California, 386 U.S. 738 (1967), asserting that there are no meritorious issues for appeal, but questioning whether the district court erred in determining Huffstetler was an Armed Career Criminal and sentencing him to the mandatory minimum sentence of 180 months of imprisonment. Huffstetler was advised of his right to file a pro se supplemental brief, but did not file a brief. The Government waived the filing of a brief. In accordance with Anders, we have considered the Appellant's brief and examined the entire record for meritorious issues. Finding no error, we affirm.

Huffstetler's counsel challenges the district court's reliance on his prior conviction for attempted second degree burglary of a storage shed in South Carolina in 1992 to classify him as an Armed Career Criminal under 18 U.S.C. § 924(e).

Because Huffstetler pled guilty to the indictment, including the special finding that he committed the offense "subsequent to sustaining at least three convictions for a crime of violence, which were committed on occasions different from one

another, in violation of Title 18, United States Code, Section 924(e)," and he does not challenge his conviction or the voluntariness of his plea, we find Huffstetler's challenge to the district court sentencing him as an Armed Career Criminal meritless.

Finding no meritorious issues upon our review of the record, we affirm Huffstetler's conviction and sentence. This court requires that counsel inform his client, in writing, of his right to petition the Supreme Court of the United States for further review. If the client requests that a petition be filed, but counsel believes that such a petition would be frivolous, then counsel may move in this court for leave to withdraw from representation. Counsel's motion must state that a copy thereof was served on the client. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED